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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Billy Cepero

Plaintiff

v.

Douglas Gillespie et al.,

Defendants

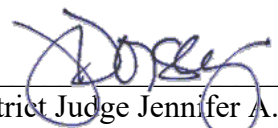
Case No.: 2:11-cv-01421-JAD-NJK

**Order Resolving Objections to
Designated Deposition Testimony**

In the notices of deposition designations, the parties provided their objections to designated deposition testimony.¹ Attached are the court's rulings on those objections, denoted next to the objection in the appropriate line of the charts. IT IS ORDERED that the objections are sustained or overruled as stated on these attachments.

Whether addressed by these rulings or not, when presenting deposition testimony at trial, counsel must:

- Exclude the internal objections and any discussion about or response thereto; and
- Exclude attorney-to-attorney colloquy.



U.S. District Judge Jennifer A. Dorsey
January 22, 2024

¹ ECF No. 271; ECF No. 273.

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

BILLY CEPERO,

Plaintiff,

vs.

DOUGLAS GILLESPIE et al.,

Defendants.

Case No. 2:11-cv-01421-JAD-NJK

**Court's Ruling on Plaintiff's
Deposition Designations, Objections to
Defendant's Deposition Designations
and Counter-Designations**

Plaintiff Billy Cepero submits the following deposition designations, objections and counter-designations. Plaintiff's designations and counter-designations are highlighted in the deposition transcripts attached as Exhibits 1-3.

A. Plaintiff's Designations

1. Mark J. Rosen, M.D.

PLT. DESIGNATIONS	DEF. OBJECTIONS	DEF. COUNTER DESIGNATIONS	Court's Ruling on Plaintiff's Objections
4:17-19			
5:17-25			
6:1-18			
7:13-25			
8:1-14			
8:21-25			
9:1-2			
9:9-12			

PLT. DESIGNATIONS	DEF. OBJECTIONS	DEF. COUNTER DESIGNATIONS	Court's Ruling on Plaintiff's Objections
10:4-7			
10:14-25			
11:1-25			
12:1-25			
13:1-25			
14:10-25			
15:1-25			
16:1-25			
17:1-25			
18:1-25			
19:1-22			
20:9-25			
21:1-16			
21:21-23			
22:12-25			
23:1-25			
24:1-14			
25:8-20			
26:5-18			
26:23-5			
27:1-9			
27:14-22			
28:2-19			
29:1-25			
30:18-24			
31:2-25			
32:1-25			
33:1-11			
33:16-24			
40:9-25			
41:1			
42:21-23			
42:25			
43:1-4			
47:6-12			

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B. Plaintiff's Objections to Defendant's Designations and Counter-Designations1. Michelle Lee Lowther

DEF. DESIGNATIONS	PLT. OBJECTIONS	PLT. COUNTER DESIGNATIONS	Court's Ruling on Plaintiff's Objections
5:6			
5:8-9			
10:21-25			
11:1			
11:5-25			
12:1-25			
13:1-23		13:24-25	
14:3-7	Hearsay	14:1-2 44:17-20	Sustained
14:11-25			
15:1-25			
16:1-25			
17:1-8			
17:16-25			
18:1-16			
18:20-25			
19:1-18		19:19-22	
23:9-14			
24:9-11		24:12-21	
25:1-25			
26:1-25	Relevance		Overruled
27:1-25			
28:1-25			
29:1-15			
34:9-25	Relevance		Sustained
35:1-25	Relevance		Sustained
36:1-8	Relevance		Sustained
38:20-25	Relevance, duplicative		Sustained
39:1-10	Relevance, duplicative, foundation		Sustained
39:13-20		39:21-25	
40:4-10		40:1-3	
41:1-25			
42:1-11		42:12-18	
42:19-21		43:2-13	

DEF. DESIGNATIONS	PLT. OBJECTIONS	PLT. COUNTER DESIGNATIONS	
		44:17-20	
45:4-7	Relevance		Sustained

2. Stacie Pace

DEF. DESIGNATIONS	PLT. OBJECTIONS	PLT. COUNTER DESIGNATIONS	Court's Ruling on Plaintiff's Objections
4:9-13		4:18-25	
5:25			
6:1-24		6:25 7:1-16 8:10-22	
9:7-20			
10:5-15			
11:6-10			
11:15-29 [sic]			
12:1-25	Hearsay	29:5-25 30:1-10 31:3-25 32:1-19	Overruled
13:1-25			
14:1-25			
15 1-25	Foundation	31:3-25 32:1-19	Overruled
16 1-25	Hearsay		Overruled
17:1		17:2	
17:13-25		33:14-25 34:1-25 35:1-25 36:1-25 37:1-14	
18:1-16		18:21-25 19:1-12 19:21-25 20:1-9 29:5-25 30:1-10 31:3-25	

DEF. DESIGNATIONS	PLT. OBJECTIONS	PLT. COUNTER DESIGNATIONS	Court's Ruling on Plaintiff's Objections
		32:1-19 37:1-14 38:25 39:1-21	
19:13-20	No testimony	18:21-25 19:1-12 19:21-25 20:1-9 29:5-25 30:1-10 31:3-25 32:1-19 37:1-14 38:25 39:1-21	Overruled
20:13-23		19:21-25 20:1-9 22:7-22 25:17-25 26:1-21 33:14-25 34:1-25 35:1-25 36:1-25 37:1-14 38:25 39:1-21 41:9-20	

Dated: January 17, 2024.

SNELL & WILMER L.L.P.

By: /s/ Dawn L. Davis

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BILLY CEPERO,

 Plaintiff,

 vs.
 GILLESPIE, ET AL.,

 Defendants.

Case Number:
 2:11-cv-01421-JAD-NJK

**COURT'S RULING ON
 DEFENDANT'S OBJECTIONS
 AND COUNTER-DESIGNATIONS
 TO PLAINTIFF'S PAGE/LINE
 DESIGNATIONS AND COUNTER-
 DESIGNATIONS**

Defendant James Bonkavich ("Defendant"), hereby submits objections and counter-designations to Plaintiff's deposition designations as follows:

A. ROSEN.

<u>Pltf. Designations</u>	<u>Def. Objections</u>	Court's Ruling on Objection
4:17-19		
5:17-25		
6:1-18		
7:13-25	Hearsay. (7:20-21)	Overruled
8:1-14	Hearsay. (8:10-14)	Overruled
8:21-25		
9:1-2		
9:9-12	Foundation. No testimony. (9:9-12)	Overruled

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1	10:4-7		
2	10:14-25		
3	11:1-25		
4	12:1-25		
5	13:1-25	Hearsay. (13:22-25)	Sustained
6	14:10-25		
7	15:1-25		
8	16:1-25		
9	17:1-25		
10	18:1-25		
11	19:1-22		
12	20:9-25	Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). (22:19-23:6)	Overruled
13	21:1-16		
14	21:21-23		
15	22:12-25		
16	23:1-25	Hearsay. Treating physician may not testify beyond scope of treatment (23:13-24:5) <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). (23:7-11)	Sustained
17	24:1-14		
18	25:8-20	Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). (26:5-9)	Overruled
19			
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26:5-18	Foundation. Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). Hearsay. Document outside of treating physician file. (26:16-25)	Overruled
26:23-5	Foundation. Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). Hearsay. Document outside of treating physician file. (26:16-25)	Overruled
27:1-9	Foundation. Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). Hearsay. Document outside of treating physician file. (27:1-9)	Overruled
27:14-22	Foundation. Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). Hearsay. Document outside of treating physician file. (27:14-22)	Overruled
28:2-19	Foundation. Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). Hearsay. Document outside of treating physician file. (28:2-9)	Overruled
29:1-25	Foundation. Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). Hearsay. Document outside of treating physician file. (29:1-25)	Sustained

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30:18-24	Foundation. Speculation. An attempt at causation that fails to satisfy legal requirements. <i>See Daubert v. Merrell Dow Pharmaceuticals, Inc.</i> , 43 F.3d 1311, 1314 (9th Cir. 1995) (must be “sufficiently compelling proof that agent must have caused the damage somehow). Also, treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). (30:18-24)	Overruled
31:2-25	Foundation. Speculation. An attempt at causation that fails to satisfy legal requirements. <i>See Daubert v. Merrell Dow Pharmaceuticals, Inc.</i> , 43 F.3d 1311, 1314 (9th Cir. 1995) (must be “sufficiently compelling proof that agent must have caused the damage somehow). Also, treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). (31:2-25)	Overruled
32:1-25	Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). Also, speculation. (32:1-25)	Overruled
33:1-11	Document outside of file. Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). (33:1-11, 16-24.)	Overruled
33:16-24	Document outside of file. Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). (33:1-11, 16-24.)	Overruled

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40:9-25		
41:1		
42:21-23		
42:25		
43:1-4		
47:6-12	Treating physician may not testify beyond scope of treatment. <i>See Rosas v. Geico Cas. Co.</i> , 218CV01200APGNJK, 2022 WL 2440953, at *2 (D. Nev. Jan. 26, 2022) (citing <i>Goodman v. Staples The Office Superstore, LLC</i> , 644 F.3d 817, 826 (9th Cir. 2011) and Rule 26(a)(2)(B)). Also, speculation. (47:6-12)	Sustained

B. LOWTHER.

<u>Pltf.-Counter Designations</u>	<u>Def. Objections</u>	
13:24-25	Hearsay	Sustained
14:1-2	Hearsay	Sustained
14:17-20		
19:19-22		
24:12-21		
39:21-25		
40:1-3		
42:12-18		
43:2-13		
44:17-20		

C. PACE.

<u>Pltf. Counter-Designations</u>	<u>Def. Objections</u>
4:18-25	Felony not admissible under FRE 609(b).
6:25	

Sustained

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1	7:1-16	
2	8:10-22	
3	17:2	
4	18:21-25	
5	19:1-12	
6	19:21-25	
7	20:1-9	
8	22:7-22	
9	25:17-25	
10	26:1-21	
11	29:5-25	
12	30:1-10	
13	31:3-25	
14	32:1-19	
15	33:14-25	
16	34:1-25	
17	35:1-25	
18	36:1-25	
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38:25	
39:1-21	
41:9-20	

Dated this 19th day of January, 2024.

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